

In The United States District Court
Western District of North Carolina Hand-Delivered
Statesville Division
No. 5:15-CV-0066-FDW

FILED
STATESVILLE, NC
NOV 19 2018

U.S. District Court
Western District of N.C.

Marshall Lee Brown Jr.,
Plaintiff

v.

George T. Solomon, et al.,
Defendants

MEMORANDUM OF LAW
Response in Opposition
to Defendants Motion
For Summary Judgment
Rule 56(c) Fed. R. Civ. P.

NOW COME PLAINTIFF Marshall Lee Brown Jr., pro-se
moving this Court deny Defendants motion For Summary
Judgment in this action.

In support Plaintiff submits Affidavits, Citings,
to show a genuine issue of a material fact exist
such that might affect the outcome of the trial
under governing law such that a reasonable jury
could return a verdict for the Plaintiff.

STATEMENT OF THE CASE

This is a action Filed by Plaintiff pro-se at Alexander Correctional Institution seeking the amending of the Religious References Guide and Practice Manual to recognize Jehovah's Witnesses as a distinct Christian organization with non-traditional beliefs and practices separate from Christendoms; the instatement of religious group worship services once a week conducted according to the distinct tenet and practices and teaching of Jehovah's Witnesses by the existing approved Jehovah's Witnesses Volunteer minister Mr. Fittipaldi or any such Volunteer Jehovah's Witnesses minister that is approved, and nominal Damages of payment of the cost of filing the complaint by Defendant Brown and Edwards. Carey v. Piphus 435 U.S. 247, 261, 98 S.Ct. 1042 (1978) Plaintiff alleges claims pursuant to RLUIPA and the First Amendment. Defendants have Filed a motion for summary judgment as to the Plaintiffs claims, arguing that their actions did not violate the Constitution.

Statement of Facts

The Plaintiffs Affidavit submitted in response to

the defendant's motion states that after allowing two (2) one (1) hour religious group worship services in the Chapel library conducted by volunteer approved Jehovah's Witnesses Minister Mr. Fittipaldi [Redding AFF. 11] Defendant Redding in conversation was requested permission to continue to allow the religious group worship services once a week for Jehovah's Witnesses inmates and inmates of interest that wanted to attend. Defendant Redding responded the Religious Resource Guide and Practice Manual considers and includes Jehovah's Witnesses as a Protestant denomination. Plaintiff informed Defendant Redding that not only does Jehovah's Witnesses denounce all of Christendom as false religion, Jehovah's Witnesses do not adhere to the central teaching of Christendom the trinity doctrine in any form or manner and considers that doctrine and the doctrines of Christendom to be detestable to Jehovah God. Defendant Redding responded that until the Religious Policy is changed there will be no religious group worship services for Jehovah's Witnesses inmates at Alexander Correctional Institution. If Jehovah's Witnesses inmates desire a group worship service they are encouraged to attend the Protestant services on Sundays. [Redding AFF. 10] [Redding AFF. 6]

Plaintiff sort recourse through Administrative Remedy Procedures exhaustion and received on all levels the same resolution in confirmation to Defendant Redding's response that the Religious Policy consider Jehovah's Witnesses a Protestant denomination until the Policy is changed there will be no religious group worship services for Jehovah's Witnesses inmates at Alexander Cone Inst. Jehovah's Witnesses inmates are requested to attend the Protestant services on Sunday.

Defendant Brown Director of the Chaplaincy Services alleges to have communicated with a number of religious theologians [Brown AFF. 3] and alleges the Religious Manual includes brief description of Protestant, Catholic and Eastern Orthodox basic belief, practices, worship procedures also including Jehovah's Witnesses as a Protestant denomination adhering to those beliefs.

[Redding AFF. 5] [Brown AFF. 5]

Defendant Brown's admission of investigating the Jehovah's Witnesses based on predominately contemporary authorities and the admission that this contributed in writing the Policies considering similarities ... And hopes the differences lead to ultimately teaching similar ideas. [Brown AFF. 6, 7, 8, 9]

Defendant's deny violating any rights secured to Plaintiff under the law of the Constitution of the United States.

Argument

THERE ARE GENUINE ISSUES OF MATERIAL FACT
THAT PRECLUDE SUMMARY JUDGMENT FOR THE
DEFENDANTS ON THE PLAINTIFFS CLAIMS.

Summary judgment is to be granted only if the
record before the court shows "that there is no genuine
issue as to any material fact and that the moving party
is entitled to a judgment as a matter of law. Rule 56(c)
Fed. R. Civ. P. A material fact is one that might affect
the outcome of the suit under the governing law.

Anderson v. Liberty Lobby, Inc. 477 U.S. 242, 248, 106
S.Ct. 2505 (1986)

The Affidavit of the Plaintiff and the defendants are
squarely contradictory as to Jehovah's Witnesses being or
not being a Protestant religion so as to deny or have no
reason to deny religious group worship services once a
week for Jehovah's Witnesses inmates at Alexander Case Inst.

This Allegation and citing in the Plaintiff's Affidavit
portray a religious organization whose religious constitution
eliminates the assimilation of the belief outside their
own Governing Body and Associate Faithful servant class.

The Defendants by contrast applied the unhealthy
tendency to consult predominately contemporary authorities
speaking about the Jehovah's Witnesses or Mr. Russell

RATHER than citing or consulting the very religious + publishing organizations Founded by Mr. Russell the Watchtower Bible and Tract Society of Penn/Ny own words. Such evidence presented by the Defendants is termed "hearsay" and would never stand-up in a court of law.

Plaintiff has pursued the practice of best evidence. it lets the Watchtower Bible and Tract Society speak for themselves in accordance with the legal rules of evidence Plaintiff set out and submitted citing from publications published by the Watchtower Bible and Tract Society as well as Plaintiff personal knowledge.

There is clearly a genuine issue of fact.

The Factual dispute is also material. Under governing law whether the Defendants Chaplaincy Services prescribing by Policy the orthodoxy of the Jehovah's Witnesses the United States Supreme Court in the case of West Virginia State Board of Education v. Barnette, held that, "no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein." [319, U.S. 624 (1943)]

The fact that a Religious Policy that proscribed falsely the orthodoxy of the Jehovah's Witnesses

religion in order to facilitate at the discretion of the clinical chaplain's such as Defendant Redding to choose to discriminate causing a substantial burden to a reasonable exercise or opportunity to religious exercise or not, a reasonable jury could find for the Plaintiff based on the facts and governing law as well as in Plaintiff's Affidavit that there is a genuine issue of a material fact and motion for summary judgment must therefore be denied. *Anderson v. Liberty Lobby, Inc.* 477 U.S. 242, 248, 106 S.Ct. 2505 (1986)

Conclusion

For the foregoing reasons, the defendant's motion for summary judgment should be denied.

Respectfully submitted, this the 12th of
November 2018

Marshall Lee Brown Jr.
Plaintiff

In the United States District Court
Western District of North Carolina

Statesville Division

No. 5:15-CV-0066-FDW

Marshall Lee Brown Jr.,
Plaintiff

v.

George T. Solomon, et al.
Defendants

Plaintiff's Appendix/Index
of Affidavit and Citings in
Support to opposition to
Defendants motion for Summary
Judgment

Local Rule 7-1(c)

NOW COME Plaintiff prose Marshall Lee Brown Jr.
and submit this Appendix/Index in support of Plaintiff
Memorandum of Law Response in opposition to Defendants
motion for Summary Judgment.

- Affidavit of Plaintiff [12 paragraphs]
- cites from publications publish by Watchtower Bible
and Tract Society of Penn/Ny. (C1) thru (C7) (total 12 pages)
① titled: "Reasoning from the Scriptures"
" and "
② titled: "Keep yourselves in God's love"

Respectfully submitted, this the 12th
day of November, 2018

Marshall Lee Brown
Plaintiff

IN the United States District Court
Western District of North Carolina
Statesville Division
No. 5:15-cv-0066-FDW

MARSHALL LEE BROWN JR.
PLAINTIFF

v.

GEORGE T. SOLOMON et al.
DEFENDANT

Affidavit Supporting
opposition to Defendant's
motion for Summary
Judgment
Rule 56(c) Fed. R. Civ. P.

I, Marshall Lee Brown Jr., being First duly sworn, hereby deposes and says as follows:

1. I am an adult over the age of eighteen (18) and am competent to provide this Affidavit.
2. I am the named Plaintiff in this action, and I would like to provide the following information for the Court's consideration. I am presently incarcerated at the Alexander Correctional Institution located in Taylorsville, N.C. to which I've been located since March 9, 2011.
3. My personal knowledge is such;
Following Defendant Redding approving and allowing two (2) one (1) hour religious group worship services in the Chapel library on the 14th and 24th of April, 2014 according to the religious constitution of the Jehovah's Witnesses who are the Watchtower Bible and Tract Society.
4. I asked Defendant Redding based on information that there were prior meetings or religious group worship services for Jehovah's Witnesses inmates in the Chapel library and that would Defendant Redding permit the religious group worship services to be reinstated for Jehovah's Witnesses inmates.

5. Defendant Redding's Response was that the Religious Policy considers and includes Jehovah's Witnesses as a Protestant denomination. I responded that's impossible Jehovah's Witnesses do believe in the same god as Protestant or Christendom. For that matter, Jehovah's Witnesses don't not believe in the trinity doctrine period.

6. Defendant Redding agreed but replied until the Religious Policy is changed there will be no religious group worship services for Jehovah's Witnesses inmates at Alexander Correctional Institution.

7. I started the Administrative Remedy Procedure adding the JW.ORG web-site and citing from Watchtower Bible and Tract Society publications published by the Watchtower Society the religious constitution and stance of Jehovah's Witnesses about not only the trinity doctrine but with mixing with any religion considering Christendom to be Babylon the Great, Protestant, Catholic and all religion, except Jehovah's Witnesses Watchtower Bible and Tract Society.

8. I have cited from the publications of the Watchtower Bible and Tract Society
[Attached to my Affidavit]

- published Publications titled
- ① "Reasoning From the Scriptures"
 - ② "Keep yourselves in God's love"

There are 12 pages and ① thru ⑦ chapters with sub-paragraphs for each

9. In Administrative Remedy Procedures I had informed them of the United States Supreme Court holding in *West Virginia State Board of Education v. Barnette*.

10. The Defendants did not attempt to mediate

11. Jehovah's Witnesses believe their religious constitution the only true religion on earth and that taking part in ANY other religious belief be it Christianity, Protestant, Catholic whatever is Apostasy subject to disfellowship.

12. I have made every legally provided way for a prisoner to resolve an issue the facts provided fell on deaf ears.

The Defendants had no concern that they were violating my Constitutional rights

Cites are set out from the Publication published by the Watchtower Bible and Tract Society the religious legally chartered and established organization of Jehovah's Witnesses entitled:

"REASONING FROM THE SCRIPTURES"

ON PAGE 203 subheading:

(C1) Do Jehovah's Witnesses believe that their religion is the only right one?

① The Bible does not agree with the modern view that there are many acceptable ways to worship God. Ephesians 4:5 says there is "one Lord, one faith." Jesus stated: "Narrow is the gate and cramped the road leading off into life, and few are the ones finding it.... Not everyone saying to me, 'Lord Lord,' will enter into the Kingdom of the heavens, but the one doing the will of my Father who is in the heavens will."

Matt. 7:13, 14, 21; see also 1 Corinthians 1:10

② Repeatedly the Scriptures refer to the body of true Christian teaching as "the truth," and Christianity is spoken of as "the way of the truth." (1 Tim 3:15;

2 John 1:1; 2 Peter 2:2)

(1)

③ BECAUSE Jehovah's Witnesses base all their beliefs, their standards for conduct, and organizational procedures on the Bible, their faith in the Bible itself as God's Word gives them the conviction that what they have is indeed the truth. So their position is not egotistical but demonstrates their confidence that the Bible is the right standard against which to measure one's religion. They are not self-centered but are eager to share their beliefs with others.

on page 34 subheading:

(C2)

Apostasy

① Definition: Apostasy is abandoning or deserting the worship and service of God, actually a rebellion against Jehovah God. Some apostates profess to know and serve God but reject teachings or requirements set out in his word. Others claim to believe the Bible but reject Jehovah's organization.

on page 36 subheading:

②

Would faithful Christians welcome apostates into their presence, either personally or by reading their literature?

2 John 9, 10: Everyone that pushes ahead and does not remain in the teaching of the Christ does not have God....

IF ANYONE comes to you and does not bring this teaching, NEVER RECEIVE him into your homes or say a greeting to him."

③ Rom. 16:17, 18: "I exhort you, brothers, to keep your eye on those who cause divisions and occasions for stumbling contrary to the teaching that you have learned, and avoid them.... By smooth talk and complimentary speech they seduce the hearts of guileless ones."

④ Would ANY SERIOUS HARM come FROM SATISFYING ONE'S CURIOSITY ABOUT THE THINKING OF APOSTATES?

PROV. 11:9: By his mouth the one who is AN APOSTATE brings his fellowman to ruin."

ISA. 32:6: "THE SENSELESS ONE HIMSELF will speak more senselessness, and his very heart will work at what is hurtful, to work at apostasy and to speak against Jehovah what is wayward, to cause the soul of the hungry one to go empty, and he causes even the thirsty one to go without drink itself."

(compare Isaiah 65: 13, 14)

(C3)

on page 280

Organization

- ① Definition: An association or society of persons whose efforts are coordinated for a particular work or purpose. Members of an organization are united by administrative arrangements and by standards or requirements. Persons who are dedicated and baptized witnesses of Jehovah come into Jehovah's organization as a result of personal choice, not by birth nor by any compulsion. They have been drawn to his earthly organization because of its teaching and practices and because they want to share in the work that it is doing.

on page 283 sub heading

- ② Are those who are faithful servants of God simply individuals who are scattered in the various churches of Christendom?

2 Cor. 6:15-18: "What portion does a faithful person have with an unbeliever?..." "Therefore get out from among them, and separate yourselves," says Jehovah, "and quit touching the unclean thing"; and I will take you in." And I shall be a Father to you, and you will be sons and daughters

to me,' says Jehovah the Almighty." (Is a person really a faithful servant of God if he continues to share in worship with those who show by their way of life they really are unbelievers?)

③ 1 Cor. 1:10: "Now I exhort you, brothers, through the name of our Lord Jesus Christ that you should all speak in agreement, and that there should not be divisions among you, but that you may be fitly united in the same mind and in the same line of thought. (Such unity does not exist among the varied churches of Christendom.)

④ John 10:16: "I have other sheep, which are not of this fold; those also I must bring, and they will listen to my voice, and they will become one flock, one shepherd." (Since Jesus would bring such ones into "one flock," is it not obvious that they could not be scattered in Christendom's religions?)

(C4)
on page 405

Trinity

① Definition: The central doctrine of religions of Christendom. According to the Athanasian Creed, there are three divine persons (the Father, the son, the holy Ghost), each said to be eternal, each said to be almighty, none greater or less than another, each said to be God

and yet together being but one God. Other statements of the dogma emphasize that these three "Persons" are not separate and distinct individuals but are three modes in which the divine essence exists. Thus some Trinitarians emphasize their belief that Jesus Christ is God, or that Jesus and the holy Ghost are Jehovah. Not a Bible teaching.

on page 204: subheading:

② Do not other religions also follow the Bible?

Many use it to some extent. But do they really teach and practice what it contains? Consider: (1) From most of their Bible translations they have removed the name of the true God thousands of times. (2) The trinity doctrine, their concept of God himself, is borrowed from pagan sources and was developed in its present form centuries after Bible writing was completed. (3) Their belief in immortality of the human soul as the basis for continued life is not taken from the Bible; it has roots in ancient Babylon. (4) The theme of Jesus preaching was the Kingdom of God, and he sent his disciples out to talk personally to others about it; but the churches today seldom mention that Kingdom and their members are not doing the work of preaching "this good news of the Kingdom (Matt. 24:14)" (5) Jesus said that his true followers could be readily identified by their love for one another.

⑥

Is that true of the religions of Christendom when nations go to war? (6) The Bible says that Christ's disciples would be no part of the world, and it warns that whoever wants to be a friend of the world makes himself an enemy of God; but the churches of Christendom and their members are deeply involved in the political affairs of the nations. (Jas. 4:4)

In view of such a record, can it honestly be said that they really adhere to the Bible?

CS

on page 49

Babylon the Great

Definition:

- ① The World empire of false religion, embracing all religions whose teachings and practices do not conform to the true worship of Jehovah, the only true God. Following the Flood of Noah's day, false religion had its beginning at Babel (later known as Babylon). (Gen. 10:8-10; 11:4-9) In time, Babylonish religious beliefs and practices spread to many lands. So Babylon the Great became a fitting name for false religion as a whole.

on page 52 sub heading:

②

Babylon the Great is like an immoral

body of living sinners in luxury

⑦

③

Rev. 17:1-5 says: "Come, I will show you the judgment upon the great harlot who sits on many waters [peoples], with whom the kings [political rulers] of the earth committed fornication, whereas as those who inhabit the earth were made drunk with the wine of her fornication" ... And upon her forehead was written a name, a mystery: "Babylon the Great, the mother of the harlots and of the disgusting things of the earth." Revelation 18:7 adds that "she glorified herself and lived in shameless luxury."

④

Is it not true that the dominant religious organizations have made it a practice to consort with political rulers for power and material gain, though this has resulted in suffering for the common people? Is it not also true that their higher clergy live in luxury, even though many of the people to whom they should minister may be impoverished.

on page 53 subheading:

⑤

Why is it urgent to get out of Babylon the Great without delay?

Rev. 18:4: Get out of her, my people, if you do not want to share with her in her sins, and if you don't want to

RECEIVE PART OF HOW PLAGUES."

(C6)

on page 389

Spirit of the World

Definition:

- ① The impelling force that influences human society made up of those who are not servants of Jehovah God, causing such people to say and do things according to a characteristic pattern. Although people act on individual preferences, those who manifest the spirit of the world give evidence of certain basic attitudes, ways of doing things, and aims in life that are common to the present system of things of which Satan is ruler and god.

on page 326 sub heading:

- ② Is belonging to an organized religion necessary?

Most religious organizations have produced bad fruitage. It is not the fact that groups are organized that is bad. But many have promoted forms of worship that are based on false teachings and are largely ritualistic instead of providing genuine spiritual guidance; they have been misused to control the lives of people for

selfish objectives; they have been overly concerned with money collections and ornate houses of worship instead of spiritual values; their members are often hypocritical. Obviously no one who loves righteousness would want to belong to such an organization. But true religion is a refreshing contrast to all of that. Never the less, to fulfill the Bible's requirements, it must be organized.

Heb. 10: 24, 25: "Let us consider one another to incite to love and fine works, not forsaking the gathering of ourselves together, as some have the custom, but encouraging one another, and all the more so as you behold the day drawing near."

- ⑤ To carry out this Scriptural command, there must be Christian meetings that we can attend on a consistent basis. Such an arrangement encourages us to express love toward others, not only concerns about self.

①7

publication titled:

Keep yourselves in
GOD'S LOVE

page 83, paragraph 22:

- ① Above all, true Christians avoid involvement

with "Babylon the Great", the world empire of false religions and the most blood guilty of all. "In her," says God's word, "was found the blood of prophets and of holy ones and of all those who have been slaughtered on the earth. Thus, we are warned: "Get out of her my people." Rev. 17:6; 18:2, 4, 24.

page 84 paragraph 23:

- ③ Abandoning Babylon the Great involves more than having one's name removed from a membership roll. It also includes hating the evil practices that false religion condones or openly advocates - such things as immorality, political meddling, and the greedy pursuit of wealth. How often these activities lead to bloodshed.

page 88, paragraph 9:

④ Spiritual Cleanliness

Put simply, keeping spiritually clean means not mixing true worship with false.

page 89, paragraph 10

Today, we as true Christians must be careful not to become contaminated by false worship. Caution is essential in this regard, for the influence of false religion is pervasive... such as the notion that some

thing inside us survives at death. True Christians
Avoid customs involving False religious beliefs.

page 144, paragraph 2 question?

② Explain how Jehovah views those who try to
Fuse true religion with False?

Consider what occurred near Mount Sinai when the
Israelites asked Aaron to make them a god. Aaron
acquiesced and made a golden calf but implied that
it represented Jehovah. "There is a Festival to Jehovah
tomorrow he said. Was Jehovah indifferent to this
Fusion of true religion with False? NO. He had
3000 idolaters put to death. (Ex. 32-1-6, 10, 28) The
Lesson? IF we want to keep ourselves in God's
love, we must touch nothing unclean" AND
jealously guard the truth against ANY forms of
corruption.

page 145 paragraph 3:

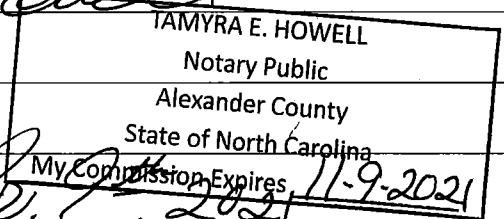
③ Sadly, after the death of the apostles, who
acted as a restraint against apostasy, so-called Christians
who had no love of truth began to adopt pagan
customs, celebrations, and holy days which they
dubbed Christian. (2 Thessalonians 2:7, 10)

This the 6th day of November, 2018.

Marshall Lee Brown Jr
MARSHALL LEE BROWN JR., Affiant

Sworn to and subscribed before me this the 6th day
of November, 2018.

Notary Public *Tamyra E. Howell*



my commission expires:

Nov. 9, 2021

CERTIFICATE OF SERVICE

I hereby certify that on this day the foregoing Plaintiff's Appendix/Index of Affidavits and citing from the publication published by the Watchtower Bible and Tract Society of Pennsylvania in support of memorandum of law responses in opposition to Defendants motion for summary judgment was served on the following via U.S. Mail, First-class postage prepaid:

JOSHUA H. STEIN

Attorney General

s/ YVONNE B. RICCI

Assistant Attorney General

N.C. State Bar. No. 21641

N.C. Dept. of Justice

Public Safety Section

P.O. Box 629

Raleigh, N.C. 27602-0629

This The 19th day of November 2018.

Marshall Lee Brown Jr.
Plaintiff